



CITY OF DANBURY
155 DEER HILL AVENUE
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ZONING COMMISSION
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MINUTES
MARCH 23, 2010

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The meeting was called to order by Chairman Robert Melillo at 7:30 PM.

Present were Anthony DiCaprio, Theodore Haddad Jr., Richard P. Jowdy (arrived at 7:40 PM), Alan Kovacs, Robert Melillo, Gary Renz, Terry Tierney and Alternates Elmer Palma, Thomas Spegnolo and Patrick Venuti. Also present was Deputy Planning Director Sharon Calitro.

Absent were Ted Farah and Walter Hoo.

Mr. Venuti led the Commission in the Pledge of Allegiance.

Chairman Melillo appointed Mr. Spegnolo to take Mr. Farah's place and Mr. Palma to take Mr. Hoo's place for the items on tonight's agenda.

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Mr. Haddad made a motion to accept the minutes of February 9, 2010 and March 9, 2010. The motion was seconded by Mr. Renz and passed unanimously. Chairman Melillo noted that the February 23, 2010 meeting had been cancelled.

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**OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:**

**Petition of The Windmere LLC, 44 Old Ridgebury Rd. (#C16006) for Change of Zone from IL-40 to RMF-4. *Public hearing closed 1/26/10 – 65 day decision making period will be up 3/31/10.***

Chairman Melillo said that eligible to vote on this are Mr. DiCaprio, Mr. Farah, Mr. Haddad, Mr. Jowdy, Mr. Melillo, Mr. Renz, Mr. Tierney, Mr. Palma, Mr. Spegnolo & Mr. Venuti. Mr. Kovacs said he was not eligible as he was not present for the public hearing. Mr. Venuti was appointed to take Mr. Kovacs place for this matter. Chairman Melillo asked if anyone was ready to make a motion on this matter. Mr. DiCaprio made a motion to approve this petition for the following reasons: the applicant's presentation spearheaded the following issues that need to be considered: the need for industrially zoned land has diminished and there is a lot of vacant office space available for lease, so this property might be better served as residential. Mr. Spegnolo seconded the motion.

Mr. Haddad said he has seen many types of petitions over the years but it is rare to see a zone change petition for a parcel with an existing building on it. He said he had looked at it from different angles. The neighbors in that area are passionate about new development in that area.

The people didn't come out because they would be happy to see this changed to residential. He said the petitioner's plan will increase the green area and remove 27% of the blacktop. They presently have approval to remove pond, but if this is approved the pond will remain on the site. He said additionally the existing building is a traffic generator, and the residential use will be much less of one. He pointed out the Matrix building which has a significant amount of industrial space available for lease. He also mentioned the Novo Labs site which has been vacant for ten years and the new building across the street from this site that is 65% vacant. There also is a vacant parcel approved for office space which is not yet developed. So in this neighborhood removing this building will barely make a dent in the amount of office space available on the west side of Danbury. He added that he too hates to see the building converted but does not want it to turn into another Novo Labs.

Mr. Tierney said regarding the trips generated by the residential use will be on local roads versus the highway. He added that there is no guarantee that they will build what they showed at the public hearing. He then questioned how they can say there will only be 11 children added to the school system. He continued saying that there are already many empty condominiums, do we need more. He said it is understood that people work from home now meaning there is less of a demand for office space. But it is a toss up and he cannot see approving another pile of condos that we don't really need. He said we should hope that they get a tenant for the existing building.

Mr. Haddad said they lose the right to fill in pond because that goes with office use. He added that there is the same percentage of vacant housing as has been in past years.

Mr. Palma asked if this is approved will the City take care of the internal streets or will it be private. Mr. Elpern said the City will continue to take care of Old Ridgebury Rd. but he doubts that the City would accept the interior roads or parking lot of the condo complex. Chairman Melillo said regardless of whether or not the zone change is approved, the maintenance costs to the City should not be affected by this.

Chairman Melillo did a roll call vote on the motion to approve and it was passed with seven AYES (from Mr. DiCaprio, Mr. Haddad, Mr. Jowdy, Mr. Renz, Mr. Palma, Mr. Spegnolo and Mr. Venuti) and two NAYS (from Mr. Tierney and Chairman Melillo).

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Court Mandated re-hearing of the 2007 Petition of Cioffoletti Construction Co, Inc., Shelter Rock Rd./Parcels A & B a/k/a 18 Plumtrees Rd. (#L13121 & #L13122) for Change of Zone from IG-80 to RMF-10. Public hearing closed 2/9/10 – 65 day decision making period will be up 4/14/10.

Chairman Melillo said that eligible to vote on this are Mr. DiCaprio, Mr. Farah, Mr. Haddad, Mr. Jowdy, Mr. Kovacs, Mr. Melillo, Mr. Renz, Mr. Tierney, Mr. Palma & Mr. Venuti. Mr. Spegnolo said he was not present for the public hearing, so Chairman Melillo appointed Mr. Venuti to take Mr. Farah's place for this matter. Chairman Melillo asked if anyone was ready to make a motion on this matter. Mr. Haddad made a motion to deny this petition for the following reasons: The adjacent land uses and steep slopes are incompatible with this proposal. This is not consistent with the Plan of Conservation & Development. This proposal has the potential of having a negative effect on the traffic in this area. Mr. Palma seconded the motion.

Mr. Tierney said this is the same situation as the previous petition because they both adjoin residential zones. Mr. Haddad said he disagrees because you can't compare Old Ridgebury Rd. to Plumtrees Rd. Mr. DiCaprio said this is very close to the previous petition and he is in favor of changing the zone. He said if you actually look at the site, you can see that the slopes are so steep that the only thing that you could get in there is residential. He continued saying that they are not going to get any industrial uses in there. He added that he knows this is against the Plan of Conservation & Development, but what else can they put there.

Mr. Haddad said the previous site was an office building this is a mining operation which could continue even if this change is approved. He added that both Mr. DiCaprio and Mr. Tierney brought up good points but the nature of this road is heavy industrial with cars and rocks being crushed. Mr. Jowdy said this Commission should make decision based on what is good for the property, not based on a hardship. It is not the Commission's problem that they cannot do what they want with the property. Mr. Palma said a lot of the traffic on this road is big trucks and that tends to make it difficult at times. He said he does not think this should be changed.

Chairman Melillo then read the permitted uses in the IG-80 zone. He said there is no guarantee that the mining operation next door would be removed. He pointed out that there are other possible uses that do not seem so intensely heavy industrial. Chairman Melillo then said he would like to take moment of personal privilege, so he turned the Chair over to Vice Chairman Haddad. He said there are times like tonight where we look at requests that seem similar to one another; but these are totally different situations. There is a difference in the two neighborhoods. Old Ridgebury Rd. lends itself to residential use whereas this stretch of road lends itself more to industrial uses that are consistent with the area. He said additionally this parcel is located at the intersection of a very steep road, which also is a safety concern. He then took the Chair back from Vice Chairman Haddad.

Mr. Tierney said he understands and agrees with what has been said. This property is not ideal for any use, but you can not really compare these two sites due to the character of the neighborhoods. Although they are both adjacent to condominium projects, he is against building condos on Plumtrees Rd. He said in response to Mr. Jowdy, they are not approving this because of a hardship that is why they approved the previous petition.

Mr. Elpern suggested they focus on the merits of this petition. Also the motion on the floor did not mention anything about a hardship that is the purview of the Zoning Board of Appeals and does not have any merit here.

Mr. Kovacs said these two petitions are two totally issues. He said with regard to this petition – the point is that nothing has changed since the previous denial except for the fact that the economy is worse. This was only sent back to this because of flaw in notice. Mr. Haddad said the court has not yet ruled on previous denial. Mr. Kovacs said the only new argument that Attorney Marcus made was that the economy is different now than in 2007. Mr. Jowdy said that is a good point and on that note, they should move on.

Chairman Melillo called a roll call vote on the motion to deny and it was passed with eight AYES (from Mr. Haddad, Mr. Jowdy, Mr. Kovacs, Mr. Renz, Mr. Tierney, Mr. Palma, Mr. Venuti and Chairman Melillo) and one NAY (from Mr. DiCaprio).

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There was nothing under New Business, Correspondence or For Reference Only. Chairman Melillo asked if there was anything to discuss under other matters and Mr. Haddad asked what would happen next with the Cioffoletti petition. Mr. Elpern said that it would be treated like a regular denial, subject to appeal upon publication in the newspaper. Chairman Melillo said several members had approached him regarding the starting time of the regular meetings. He re-echoed that the regular meetings start at 7:30 PM. He then asked that the Commission members make an effort to arrive on time for the meetings.

At 8:30 PM with no further business to discuss, Mr. Haddad made a motion to adjourn. Mr. Jowdy seconded the motion and it was passed unanimously.